

AGENDA

State of Wisconsin Livestock Facility Siting Review Board Teleconference Meeting

Friday, June 19, 2009
12 p.m. to 1:15 p.m.
DATCP, Boardroom 106
2811 Agriculture Drive, Madison

- 12:00 p.m. Call to Order—Jim Holte, LFSRB Chair
- Open meeting notice
 - Approval of agenda
 - Approval of December 19, 2008, meeting minutes
 - Election of officers
 - Reappointment of board members
- 12:10 p.m. Status of appeal on *Larson Acres, Inc. v. Town of Magnolia*, Docket No. 07-L-01 circuit court decision— Cheryl Daniels, Board Attorney
- Announcement to go into closed session—Jim Holte, LFSRB Chair
- Nature of business to be considered in closed session – brief by counsel
 - Statutory exemption that allows closed session
 - Wisconsin Statute 19.85(1)(g): conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is involved
- Motion to adjourn from open session and go into closed session
- 12:15 p.m. Discuss first draft of brief in LFSRB appeal of circuit court decision in *Larson Acres, Inc. v. Town of Magnolia* case, Docket # 07-L-01
- 12:30 p.m. Motion to adjourn closed session and return to open session
- 12:35 p.m. Livestock siting annual report—Mike Murray, DATCP
- 12:50 p.m. Report on public comments on livestock siting law from May 13, 2009, ATCP Board Meeting—Cheryl Daniels
- 1:00 p.m. Board schedule and future agenda items
- Remaining scheduled 2009 meetings—July 17, August 21, September 18, October 16, November 20, and December 18
 - Future agenda items
- 1:15 p.m. Adjourn

**DRAFT MINUTES
LIVESTOCK FACILITY SITING REVIEW BOARD
TELECONFERENCE MEETING
December 19, 2008
Boardroom 106, 2811 Agriculture Drive, Madison, WI**

Chair Holte called the meeting to order at 12:03 p.m. Other LFSRB members present by phone were Andy Johnson, Bob Selk, Fran Byerly, Lee Engelbrecht, Bob Topel, and Jerry Gaska. A quorum was present. DATCP staff present were Cheryl Daniels and Lori Price.

Call to order

Holte stated the meeting agenda was publicly noticed, as required, and then presented the agenda for approval. He noted that the agenda was amended and sent to the board members prior to today's meeting. Topel moved to approve the agenda, and Johnson seconded the motion. The motion passed.

Holte presented the November 21, 2008, meeting minutes for approval. Johnson made a motion to approve the minutes as written, and Selk seconded the motion. The motion passed.

Van Dyke v. Racine County, Docket No. 08-L-02: Review and Approve Decision—Jim Holte

Holte opened up this agenda item for discussion on any comments on the draft decision. Being none, Topel made a motion for the LFSRB to approve the decision as written. Bylerly seconded the motion. The motion passed unanimously.

Daniels requested that each board member sign the signature page, cross out "draft" on the page, initial the correction, and send it back to her for inclusion into the order.

Larson Acres, Inc. v. Town of Magnolia, Docket No. 07-L-01, circuit court decision—Cheryl Daniels

Daniels reported that the circuit court decision in this case was rendered on December 15th. She explained the three standards of review (great weight, due weight, and de novo) the circuit court judge could have used in this case. (Each standard gives the court a certain amount of deference to the agency, with great weight giving the highest and de novo giving the lowest.) The board took the position that this case should be reviewed using the due weight standard, giving the agency an "intermediate level of deference." The circuit court judge used the de novo ("anew") standard for review in this case with no deference to the agency. Prior to today's meeting, Daniels spoke with Bob Hunter, Legal Counsel for the LFSRB, about the judge's decision. Hunter believes the board's position on standard for review in this case is a strong one. Daniels went on to explain that the judge sided with the plaintiffs on the permit conditions meeting the livestock siting law, and that the board does not have the power to review the conditions in the permit. However, Hunter believes that review of the conditions on the permit is in the purview of the LFSRB. The judge also listed issues that were not essential to the review in this case, including the factual findings and the applicability of NRCS 590 standard. Both the LFSRB and Larsen have until January 30th to appeal this decision.

The board members then discussed whether to appeal this case to a higher court. They were not comfortable leaving the judge's decision "as is" because it challenges the board's authority where it would limit that authority to solely a "yes" or "no" decision on a permit appeal without allowing for any modification. The judge also decided that the neighbors within the two-mile radius of the facility had no standing to appeal the board's decision, which Daniels commented was incorrect.

Johnson then made a motion for the LFSRB to direct department staff to recommend appeal of this case to DOJ. Gaska seconded the motion. Daniels explained that it would be up to DOJ to decide whether the case is appeal worthy. If they decide it is not, then the board would have to hire its own attorney. If DOJ decides to appeal, the District 4 Court of Appeals will hear the case. If the case should go as high as the State Supreme Court for appeal, the court will only take up the case "by permission" meaning they have the decision whether to hear the case or not. Motion passed unanimously.

Daniels will speak with Hunter on whether the board needs to meet with him in closed session to outline parts of the decision that need to be challenged. Daniels clarified that once the appeal is filed, there will be an automatic "stay" on the judge's order to keep the board's order in place and it does not implement the judge's order until the court of appeals makes its decision.

Discussion of Changes to the Board Bylaws and Appendix—Cheryl Daniels

Daniels reported that she did not receive from board members any suggested changes to their bylaws and appendix. There were no changes suggested at this meeting so the bylaws and appendix will remain as written.

Board Schedule and Future Agenda Items

The board members reviewed and agreed upon the dates listed for the 2009 meetings. These dates will be posted on the board's webpage. Daniels stated that the only agenda item she might anticipate for the future was a meeting with Hunter to discuss the appeal on the Larson case.

Daniels reported that in May of 2009, Selk's and Gaska's terms on the board will end. She will notify the DATCP Secretary's office of this fact for further consideration.

Adjourn

Johnson moved to adjourn the meeting, and Byerly seconded the motion. The motion passed. The meeting ended at 12:54 p.m.

Respectfully submitted,

Bob Selk, Secretary

Date

Recorder: LP

Livestock Facility Siting

s. 93.90 Wis. Stats. and ATCP 51 Wis. Admin. Code

Third Annual Report

May 2008 – April 2009

Department of Agriculture,
Trade and Consumer Protection

Division of Agricultural Resource Management
Land and Water Resource Bureau
Resource Planning Section



Executive Summary

This annual report summarizes statewide activity during the third year of implementing the livestock facility siting law (s. 93.90 Wis. Stats.) and rule (ch. ATCP 51 Wis. Admin. Code). To better convey local implementation challenges, the Department of Agriculture, Trade and Consumer Protection (DATCP) has supplemented this report with information gathered from a stakeholder survey of select local governments, farmers and consultants. The insight from stakeholders, combined with information we routinely collect, largely reinforces the prevailing understanding of the law's implementation.

This report is organized to better showcase stakeholder perceptions, yet covers many of the same issues addressed in previous reports. As discussed in the report's first section, the siting law continues to work according to key measures. The second section explains how local expectations impact key aspects of implementation, from ordinance adoption to application reviews. The remaining sections examine the following specific issues: application reviews, local challenges with standards, and coordination with other regulatory requirements such as the Department of Natural Resources' permit program for concentrated animal feeding operations (CAFO). As part of these sections, the report takes up decisions of the Livestock Facility Siting Review Board (LFSRB), as well as the findings from a USDA Conservation Innovation Grant on odor control.

The report sets out action items to address the concerns in each section. The full set of recommendations is summarized below:

- Build on opportunities created by the Working Lands Initiative (WLI) and increased interest in planning and zoning to conduct outreach regarding the siting law requirements. Coordinate ordinance reviews and outreach efforts with the WLI.
- Continue to encourage reporting of local ordinance and permit actions to take advantage of DATCP's upgraded data tracking, including a new interactive web site. Consider linking reporting on siting activities with other DATCP reporting requirements, such as county land and water resource management plans.
- Develop effective approaches to work with local governments modifying or adopting zoning or ordinances with siting provisions, particular in response to changes triggered by the WLI.
- Improve outreach efforts to build local capacity to better administer the law with a specific focus on improving completeness determinations, and reducing inconsistencies in permit reviews. Plan statewide training and other efforts that target outreach to jurisdictions with high permitting activity.
- Respond to local governments requests for establishing compliance monitoring protocols.
- Develop a comprehensive list of recommendations for rule changes that reflect the most current standards and research, in anticipation of fourth year review.
- Work with state and local official to promote efficiency and fairness to applicants, and better coordinate reviews of applications related to siting, county manure storage ordinances and WPDES permits.
- Prepare for critical fourth year program evaluation by working with ATCP Board to implement key steps to successfully assess program needs and develop appropriate responses.

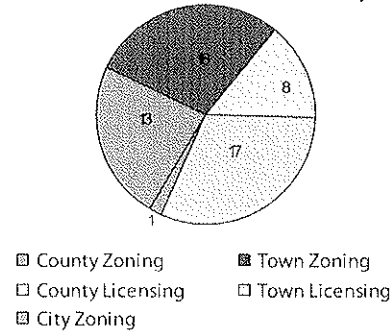
The Law Works

By many measures, the siting law is working as intended by the legislature. Ordinances are being properly enacted, and 18 permits were issued by towns and counties since the last report. In these matters, conflict remains the exception, and permits are being issued based on compliance with the siting standards and timelines (within four months).

When local governments elect to adopt siting ordinances they are following state requirements. Since the last report, six new ordinances were reported to DATCP. While it appears that the early adoption phase is tapering off (30 of 55 ordinances were adopted in the six months following the law's enactment), there is every reason to believe that possible passage of the Working Lands Initiative (WLI) may alter this trend. WLI requires municipalities to update zoning ordinances, including conditional use permit requirements for livestock operations. Mandated DATCP review of ordinances for compliance with the Working Lands Initiative would ensure an opportunity for DATCP to comment on local permit requirements for livestock facilities.

Over the past year, the number of permits issued has more than doubled from 17 to 38. Not surprisingly, the majority of permits (30 of 38) are for dairy facilities. Approvals have also been granted to a swine operation, three poultry facilities and four mixed species facilities. While no permit applications were denied, on appeal the LFSRB reversed one local approval based on the

55 Ordinances
(21 Counties, 33 Towns and 1 City)



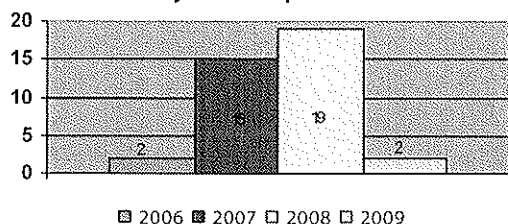
failure to correctly apply the nutrient management standard. *Audrey Van Dyke v. Racine County*, Docket No. 08-L-02 (all decisions are posted at livestocksiting.wi.gov).

Local officials appreciate how the siting law offers a one-stop, comprehensive regulatory approach to on-farm manure management. The state siting standards require farmers to demonstrate that they can safely handle and land apply manure. The siting standards and process provides fairer and more consistent measures than the arbitrary decision making process once used by local governments to permit facilities.

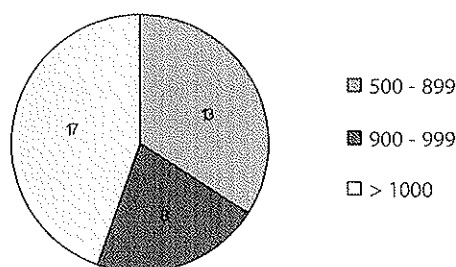
The law provides a structured mechanism for local governments to interact with landowners and provides a venue to manage controversy. Often, unless a facility was over 1,000 animal units, manure storage and other permits were issued without community involvement. The siting permit opens the door for improved communications and increased local involvement. And an added benefit is that local officials can do future planning with smaller farmers who may one day apply for a siting permit.

As local governments gain experience implementing the law, improved efficiencies are being realized. One third of the municipalities with siting ordinances have exercised their authority to review applications and grant permits.

Siting Permits Issued
May 2006 to April 2009



Permitted Facilities Size in Animal Units



Of these, only eight have issued more than one siting permit.

While 14 jurisdictions have authority to issue permits for facilities under 500 animal units, none have exercised that authority. As a result we have avoided the challenges of regulating smaller farmers: there is considerable burden to prepare and process siting applications, including added costs for farmers for engineering costs and the \$1,000 permit fee, while the regulatory benefits are limited (e.g. no nutrient management plans if adequate land is available, county already requires permit for manure storage).

Local governments are exploring alternate planning and zoning strategies to manage conflict related to large livestock facilities. DATCP worked extensively with the Town of Lamartine and their land use planners to develop multiple agricultural zoning districts in a way that steers larger operations into the most appropriate locations while meeting the requirements of the siting and farmland preservation laws. The final town plan and ordinance await adoption.

While variance procedures may differ, our survey confirmed that towns and counties are responding to requests. Variances have been granted to reduce setbacks from streams, property lines, roads, and a railroad right-of-way. In two cases, requests to reduce setbacks for manure storage structures were denied.

Whether the stakeholder was a farmer, consultant or local government, the survey respondents

appreciated the quality of DATCP staff assistance and materials. Local regulators frequently advise producers to review information posted on the department's siting Website (livestocksiting.wi.gov), and often provide DATCP materials to landowners. Over the last year the department revised fact sheets, updated the Website and issued releases on reconciling animal units and monitoring compliance. An improved online Web application is being developed to display local siting requirements. Staff presented the program at over a dozen training sessions covering topics ranging from land use to the technical aspects of complying with the siting law. These included the Wisconsin Towns Association land use workshops, the DNR CAFO workshops, and individual workgroups. DATCP intends to build on this positive perception.

Action item – Build on opportunities created by the Working Lands Initiative (WLI) and increased interest in planning and zoning to conduct outreach regarding the siting law requirements. Coordinate ordinance reviews and outreach efforts with the WLI.

Action item – Continue to encourage reporting of local ordinance and permit actions to take advantage of DATCP's upgraded data tracking, including a new interactive web site. Consider linking reporting on siting activities with other DATCP reporting requirements, such as county land and water resource management plans.

Description of stakeholder survey

In February and March, 2009, department staff conducted interviews with immediate users of the law, including municipalities, producers and consultants with experience reviewing or applying for siting permits. Local individuals involved in permitting 22 livestock facilities provided direct feedback. Information was collected about barriers to local implementation, ordinance administration workload, challenges and successes, in addition to opinions of the siting standards, process and rule. Our stakeholder survey confirmed many views commonly held about the siting law's implementation, while adding new levels of insight. Comments expressed in the responses are included throughout the report. See

Local Expectations and Considerations Still Matter

Implementation of the siting law is driven by local expectations and considerations, as our routine government contacts and the stakeholder survey confirmed. Although the law was intended to create a uniform statewide regulatory system, local perspectives influence actions ranging from a decision to adopt an ordinance to the steps used to review an application.

There are a number of reasons why certain counties and towns have consciously decided not to adopt siting, including a lack of perceived benefit, complexity or costs of administration, and the desire to avoid controversy. Our stakeholder survey included two counties that did not adopt siting. Both pointed to extensive town zoning as the reason why they deferred to the towns to act. They also pointed to the desire to avoid controversy and the availability of other regulatory tools, such as the state agricultural performance standards.

Local action is influenced by the perceived impacts of the siting law on local control. Felt keenly by some local governments that exercised broader zoning powers before 2006, the sense of diminished control can result in aversion to modifying ordinances to incorporate siting. The siting law restricts local power to deny a conditional use permit based on discretionary standards such as incompatibility with surrounding land uses. The law also restricts the ability to impose more stringent local standards and setbacks without proving public health and safety justifications. In contrast, local governments that did not regulate livestock farms with conditional use permits prior to 2006 have different experiences. For them, the law created new opportunities to regulate through the use of a licensing ordinance.

Some local governments appreciate that the siting law did not remove their control over the location of different land uses, but has simply shifted the

focus to planning and zoning. Now land use restrictions must be decided prior to conditional use hearings, for example, using a consensus based process to establish agricultural transition zoning as a way to avoid problems in areas where urban and rural land uses meet.

Local expectations, capacity and expertise play a critical role in how complex permit applications are processed. At the most basic level, local governments along with consultants, producers and the public all started at different spots on the learning curve in terms of their understanding of the siting law. Towns in particular lack the same resources and technical capacity as counties that administer the law.

The Town of Magnolia is pressing a broad interpretation of local authority to impose more stringent standards and enforce other state and local regulations within a siting permit. The 2007 LFSRB decision in *Larson Acres, Inc. v. Town of Magnolia*, Docket No. 07-L-01, initially reversed permit conditions imposed on a 1,500 animal unit dairy by the Town of Magnolia. On appeal, the Rock County Circuit Court (*John Adams et al v. State of Wisconsin Livestock Facilities Siting Review Board*, No. 2007CV001478) upheld the conditions imposed by the Town of Magnolia. The circuit court decision was appealed to the Court of Appeals on Feb. 25, 2009. A verdict will help clarify key issues.

During a permit hearing, public expectations and misunderstandings about the siting law must be dealt with. The public may focus on changing the location of the farm or other matters beyond the siting law's scope including road damage, groundwater quantity, traffic patterns, property values, toxic air emissions, antibiotic use, industrial agriculture and other apprehensions. Based on unique resource concerns, there may be pressure to impose higher standards than allowed by the state standards. However, judging from the lack of controversy involving most permit cases, it is fair to say there is an overall level of

acceptance of the siting process. The interjection of personal bias is being replaced by appropriate legal benchmarks contained in ATCP 51 and other laws.

Action item – Develop effective approaches to work with local governments modifying or adopting zoning or ordinances with siting provisions, particular in response to changes triggered by the WLI.

Permit Application Reviews

In terms of local implementation, the most tangible measure of success relates to the review and approval of individual permit applications. Applications require that local governments commit staff and resources to meet the rigorous procedures and standards of the law. Fair and efficient processing of applications is vital to producers who are coordinating various aspects of complicated expansions or new construction projects. It is in this area that the stakeholder survey proved very valuable.

For the most committed administrators, processing a siting application can take up to 120 hours of staff time. Administering an ordinance can involve pre-application meetings between the local officials and the producer, review of applications, public hearings, drafting permits and public education. The bulk of the workload is evaluating engineering and nutrient management plans for compliance with the siting standards. Processing siting permits has proved more complex, requiring greater attention to environmental standards, than processing manure storage, zoning and other local permits. Coordinating work between different departments complicates the process, for example synchronizing technical review by land conservation staff and public hearing components organized by zoning staff, while still meeting the ATCP 51 timelines. Controversial projects require extra effort.

Our survey identified a local government opinion that the \$1,000 fee does not cover all their costs for staff and administration. This does not necessarily trouble local officials, however, who understand that siting provides supplementary benefits that make it worthwhile. The fee is only one part of the total permitting costs to producers. The cost to develop a siting application exceed those for manure storage and other local permits, and are comparable to applying for a WPDES permit (Wisconsin Pollution Discharge Elimination System Permit). It is somewhat difficult to separate a producer's permitting costs because the application fee is only a portion of the total, and many of the expenses are incurred regardless of the local regulatory requirements, for instance engineering design costs. Producers are learning painful lessons about the value of advance planning and costs of submitting incomplete applications. Local governments are not acting on piecemeal submittals of paperwork. In the end, corrections and resubmissions result in time delays and increased costs.

Important challenges surround the completeness determination and final approval decisions. Applications are often incomplete when submitted. Local officials cannot take a passive role, and some actively assist producers to develop complete applications. Other local governments combine the completeness determination and final compliance determinations in a single review. In part, they are motivated by a concern that a completeness determination is in some sense final because the law contains a presumption that a complete application is in compliance with the siting standards. As a result, officials ensure that designs and plans meet the technical design requirements with the hope that this will provide adequate reassurances when the public hearing is held.

There are variations in the way towns, counties and agencies interpret and apply the siting standards and procedures. These variations involve different aspects of the application

procedures. For example, some jurisdictions agree to conceptual plans for future construction, whereas others require final designs for everything ever intended to be built. Based on their technical sophistication or access to assistance, local governments conduct much different levels of review of applications. County land conservation departments typically have the capacity to carefully review technical requirements, whereas Towns do not. Whatever the cause, this type of inconsistency is a source of frustration to consultants who must make adjustments to accommodate differing requirements.

Two LFSRB decisions provide a stark example of inconsistencies in administration. In both cases, the issue involved whether the county applied the proper standard for approving the applicant's nutrient management plan. In upholding Crawford County's permit, the board noted in *Ronald S. Stadler v. Crawford County*, Docket No. 08-L-01, that the county imposed the correct standard which required a plan to cover the maximum number of animal units, but failed to carefully document this fact in the record. In the Racine County case cited earlier, the board reversed the county approval because the nutrient management plan failed to demonstrate adequate acres to spread manure from the number of animals authorized under the permit.

Confirmed in the survey, is the need to identify the necessary actions for monitoring compliance with permit conditions. As more permits are issued, local governments will look at ways to improve this aspect of program administration. Consistent interpretation of the law will be important in this area.

Action item – Improve outreach efforts to build local capacity to better administer the law with a specific focus on improving completeness determinations, and reducing inconsistencies in permit reviews. Plan statewide training and other

efforts that target outreach to jurisdictions with high permitting activity.

Action item – Respond to local governments requests for establishing compliance monitoring protocols.

Challenges with the Siting Standards

Demonstrating compliance with nutrient management standards remains the key challenge. In most cases the odor standard is not an issue; however, the CIG study findings may complicate how odors are managed. It will be important to keep the siting standards current as NRCS technical standards are revised. Changes to these NRCS standards should address some of the concerns of consultants and local governments.

Nutrient management – Producers typically prepare a full nutrient management plan prior to seeking siting approval. Some officials accept the checklist in Worksheet #3 without the entire plan if a producer has a history of consistently submitting annual or semi-annual plan updates for compliance under another program. While the level of review by local government varies, local regulators typically try to assess the acres available for land application, land rental agreements, crop rotations, erosion rates and spreading maps to get a sense of proper planning for the expected number of animals.

Nutrient management is complicated and the plans are dynamic. Compounding this are divergent views on the adequacy of the NRCS Standard 590 to protect surface and groundwater. Concerned citizens are quick to seize on discrepancies to attack plans. It is not surprising that two appeals to the LFSRB, highlighted earlier in this report, centered on the integrity of the nutrient management plan.

Odor management – Producers are not encountering significant difficulties achieving passing scores or implementing practices. Of the 38 permits granted, a third of producers claimed

the exemption from the odor standard (new facility less than 500 AU, expanding less than 1,000 AU, or no neighbors within 2,500 feet). Only eight farms voluntarily recorded an odor score. The remainder of permitted facilities expanded above 1,000 AU and had to meet the odor standard.

Odor has emerged as a primary concern in a few limited instances, although in general the survey confirmed the fact that odor is generally not an issue. There is frustration that medium sized producers are not required to record odor scores when neighbors are within certain distances or high neighboring population densities exist. Local governments are hesitant to defend the standard knowing it does not eliminate odors. Potential negative public health impacts from toxic air emissions are sometimes commingled with odor concerns by concerned neighbors.

Throughout 2008 DATCP partnered with the DNR to conduct an odor and air emission control study funded in part through a federal USDA Conservation Innovation Grant (CIG). One of the primary goals of that study was to compare the levels of odor predicted by the model used in that standard to actual odor levels measured on farms. After the CIG study is completed in 2009 the final results will provide real-world data to use as a basis for making possible adjustments to the odor model used in ATCP 51.

Initial findings demonstrate that the odor model accurately predicts odors from manure storage lagoons with impermeable and permeable covers, and from uncovered lagoons of average size (2 - 4 acres) while the under predicting odors from small lagoons (0.4 acre). The model may overstate odor reductions from anaerobic digesters, and solids separation and aeration systems. Although this work will be ongoing in 2009, some of the early results have implications for the odor standard in ATCP 51.

This year the department adopted a public process to evaluate innovative odor control practices that

are not included in the odor standard. According to ATCP 51.14(5) when scientific evidence substantiates that a practice reduces odors, the department can assign an odor reduction factor for the practice. This process was followed in assisting a poultry layer operation in Walworth County with a unique litter drying system as they applied for a siting permit.

Waste and other storage facilities -- Evaluation of existing manure storage structures poses the most challenges, especially if the county land conservation department was not involved during the design and construction of the older facility. Consultants and local officials are not always clear on level of detail required for their investigations. Revisions to the technical standards will need to be recognized. The process has started to update NRCS Standards 313 -- Waste Storage Facility, and 634 -- Manure Transfer. Likewise NRCS Standard 629 -- Waste Treatment was recently revised to include design criteria for feed storage leachate control and milking center waste treatment.

Action item -- Develop a comprehensive list of recommendations for rule changes that reflect the most current standards and research, in anticipation of fourth year review.

Coordination of Regulatory Requirements

As more siting permits are issued, improved coordination of regulatory requirements has emerged as a critical consideration. Even if the siting permit is granted first, the need to obtain other relevant approvals can delay population of a facility. Operators may also need permits for driveways, septic systems, manure storage, wells, WPDES, stormwater, shore land, and others. As our survey revealed, the consultant's role is expanding beyond normal design work to include coordination of multiple regulatory submittals. Guidance about the various local and state permit requirements and processes would help producers

properly sequence applications and avoid permitting fatigue.

Farmers and consultants are interested in reducing redundancy between state and local programs. The siting requirements are familiar to consultants and local officials because they draw on well accepted technical and performance standards.

Nevertheless, prior to building a manure storage facility producers may need a town siting permit, a county manure storage permit and a state WPDES permit; all of which hinge approval on fulfilling the engineering design criteria of NRCS Standard 313. To streamline the approval process regulatory bodies should share information.

Producers who apply for a siting permit that covers 1,000 or more animal units must prepare facility designs and nutrient management plans that meet the more restrictive standards in NR 243. When dealing with CAFOs some local officials are hesitant to act on siting approvals until the DNR has issued a WPDES permit. Unfortunately, WPDES permits can take up two or more years to be issued. Producers are also recognizing the timing benefit of seeking DNR approval prior to local siting approval. Careful planning that anticipates all needs can avoid costly redesigns.

Action item – Work with state and local official to promote efficiency and fairness to applicants,

and better coordinate reviews of applications related to siting, county manure storage ordinances and WPDES permits.

Preparing for Year Four Review of the Rule

We are coming upon the four year mark of the law's implementation. Under s. 93.90 (2) (c), Stats., the agency in conjunction with the Agriculture, Trade and Consumer Protection Board must review the livestock facility siting standards under ATCP 51 at least once every four years. The issues identified in this and earlier reports will be important in that review. As part of the review, DATCP staff intends to highlight the key implementation issues and possible responses, including rule changes, referencing the most recent NRCS technical standards, reviewing the adequacy of the standards and managing multiple jurisdictional permit approvals. We are looking for guidance from the board concerning this important benchmark.

Action item – Prepare for critical fourth year program evaluation by working with ATCP Board to implement key steps to successfully assess program needs and develop appropriate responses.

Local Livestock Facility Siting Ordinances

County Ordinances	Marathon	Calumet	Packwaukee
Barron	Racine	Carlton	Pierce
Burnett	Shawano	Casco	Plymouth
Chippewa	St. Croix	Clinton	Porter
Crawford	Trempealeau	Cottage Grove	Portland
Dodge	Vernon	Edgewater	Rock
Douglas	Walworth	Harmony	Rosendale
Eau Claire		Kewaskum	Spring Valley
Florence	Town Ordinances	Little Black	Springvale
Green	Anhappee	Lowville	Turtle
Jackson	Arlington	Luxemburg	Union
Jefferson	Armenia	Magnolia	Waupun
La Crosse	Bradford	Marshfield	Wyoming
Lincoln	Buffalo	Metomen	
Manitowoc	Byron	Oakfield	

Appendix A — Livestock Facility Siting Survey

Purpose of the survey

This intent of the survey was to gain local perspectives about implementation of the livestock facility siting law. Specifically, the department was interested in attitudes concerning:

- Barriers to local implementation of the siting law
- Ordinance administration workload, challenges, and successes
- Opinion of the siting standards, process and rule

How were participants selected?

Our focus was on municipalities that have experience reviewing applications and issuing permits. Staff also surveyed consultants and producers involved in local permitting, plus local governments that elected not to adopt siting ordinances. During February and March 2009 assessment questions specific to each group were sent. Answers were collected by department staff during follow up phone interviews. To elicit responses survey participants and their responses are kept confidential. The following is a summary of the four categories of survey participants.

Governments that enacted a siting ordinance

Four counties and two towns were interviewed (11% of local governments with siting ordinances). They represent a mix of zoning and licensing ordinance types, plus include a variety of animal unit thresholds. Importantly these counties and towns interviewed represent 33% of the municipalities that have exercised their abilities to review applications and grant permits.

- Counties C and D: zoning ordinances, less than 500 AU threshold, multiple permits issued
- County E: licensing ordinance, 500 AU threshold, multiple permits issued
- County F: licensing ordinance, greater than 500 AU threshold, multiple permits issued
- Towns A and B: zoning ordinances, 500 AU threshold, each issued 1 permit

Consultants

Consulting firms were contacted for their perspective on how different municipalities interpret the siting law. The engineering firms selected have worked on 35% of the siting permits granted in Wisconsin:

- Consultant A: 7 applications in 5 jurisdictions
- Consultant B: 6 applications in 4 jurisdictions

Producers

To date there have been seven town permits and 31 county permits granted. Producers were selected to represent CAFO's permitted under county and town regulation. The facilities are not located in the municipalities with siting ordinances that we interviewed:

- Farm B: County license, expanding >1000 AU
- Farm C: Town license, expanding >1000 AU, substituted WPDES permit for applicable worksheets

Governments that did not enact a siting ordinance

We interviewed two counties that decided not to adopt siting. These counties were specifically contacted because towns within their jurisdiction have granted livestock siting permits under town ordinances.

- County A: 7 of 21 towns adopted siting, multiple permits issued by towns
- County B: 5 of 10 towns adopted siting, multiple permits issued by towns

Survey Questions

Specific variations to the basic questions were developed for each group of participants to elicit appropriate responses. In general the local governments, consultants and producers received substantially the same list. For example, consultants and farmers were asked about challenges encountered when applying for a siting permit, while local officials were asked about challenges of reviewing an application. Because of these similarities, only the questions for local governments with and without siting ordinances are included.

Local government with siting ordinances were asked these questions

1. Who is involved in ordinance administration (e.g. zoning, LCD)? Has outside assistance been needed? If yes, who and what type of help?
2. When administering the siting ordinance how much time is spent reviewing individual applications? Conducting public hearings? Pre-application meetings? Compliance monitoring and enforcement? Other duties?
3. Are costs to administer the ordinance more or less than expected? Does the \$1000 fee cover cost of issuing a permit?
4. Compared to issuing a permit under the county manure storage ordinance (or town zoning ordinance) how much more effort is required for issuing a siting permit?
5. How does public involvement compare with issuing other permits? How many people attend siting hearings or submit comments?
6. How often have people wanted you to consider issues outside the siting standards when making a permit decision? How has this been managed?
7. What issues have emerged in your implementation of the odor standard? Are you monitoring for compliance?
8. Have there been odor complaints at facilities that passed, or were exempt, from the odor standard?
9. During the permitting process do you review complete nutrient management plans or only the checklist and maps?
10. What are the challenges with the manure storage standard, for example evaluation of existing structures?
11. Are there design or operational challenges related to the feed storage standard?
12. How do you work with producers to ensure that applications are submitted with all the relevant information? Have you returned applications as incomplete?
13. Are variances being requested? For what?
14. How have you addressed compliance monitoring and enforcement?
15. What are the benefits of having a siting ordinance, success with implementation?
16. What are the challenges of administering a sit-

ing ordinance? What do you dislike?

17. Do you have suggestions to improve the application forms? Process? Standards?
18. Does siting complement or hinder implementation of rules, e.g. manure storage ordinance, planning and zoning?
19. If you have received DATCP assistance or used DATCP materials, what have you found most helpful? Least helpful?
20. Have Livestock Facility Siting Review Board decisions influenced your administration or understanding of the siting law?
21. What type of assistance is desired to better implement the siting law?
22. Is there anything I did not ask that you want to tell us?

Local governments that did not enact a siting ordinance were asked these questions

1. Prior to 2006, did you require conditional use permits of new or expanding livestock operations?
2. Did you consider the potential benefits and negatives of adopting siting?
3. Why did you choose not to adopt a livestock siting ordinance?
4. Did town governments coordinate implementation of the siting law with the county? Does the county help towns administer siting in any capacity, e.g. develop ordinances?
5. Do you rely on other tools to regulate livestock operations? (manure storage ordinance, zoning, DNR CAFO permit)
6. Is conflict with other programs a reason siting was not adopted?
7. How is your community dealing with questions about where large livestock farms should be located?
8. If you have received DATCP assistance or used DATCP materials, what have you found most helpful? Least helpful?
9. Do you think siting may be adopted in the future?
10. Is there anything I did not ask that you want to tell us?

Livestock Facility Siting

s. 93.90 Wis. Stats. and ch. ATCP 51 Wis. Adm. Code

Third Annual Report May 2008 to April 2009

ATCP Board

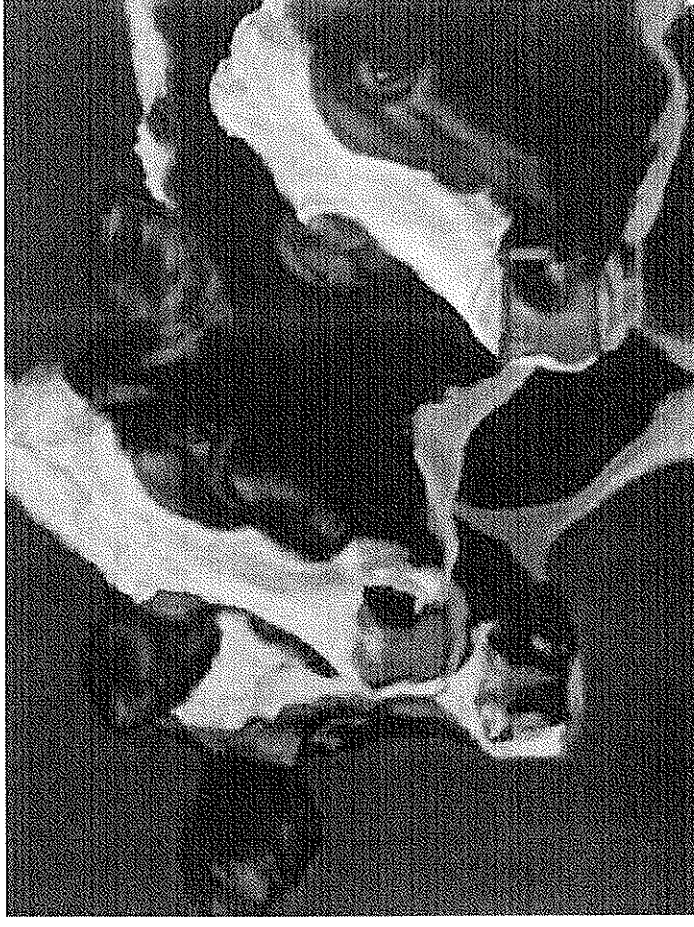
May 13, 2009

Mike Murray, DATCP



Year three review

- The law works where it is locally adopted
- Local expectations and capacity impact implementation
- Actions to improve implementation success

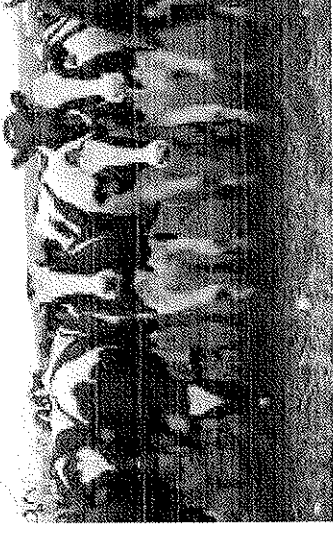


Action items: Implementation

- Education and outreach for consistent local interpretation of the rule
 - Authority under siting and other laws
 - Application review
- Improve DATCP tracking of ordinance revisions and permit issuance by encouraging local reporting
- Work with state and local officials to promote fairness, and better coordinate permitting
- Respond to local government requests to develop monitoring protocols

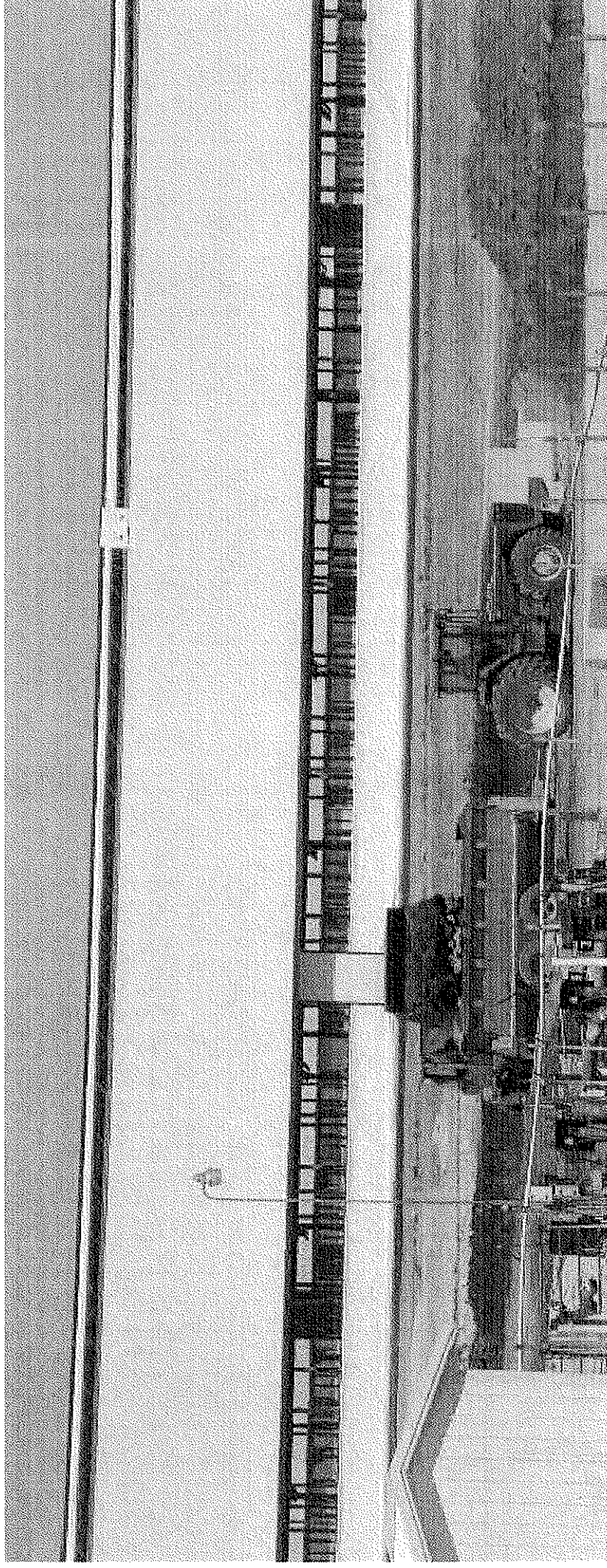
Action items: Prepare for required four year review of ATCP 51

- Identify steps to successfully assess program needs and develop appropriate responses
 - Keep the siting standards current
 - Develop a comprehensive list of rule change recommendations



The law works when locally adopted

- The siting permit is a comprehensive approach to farm manure management
- Decisions based on siting and other laws



Implementation success

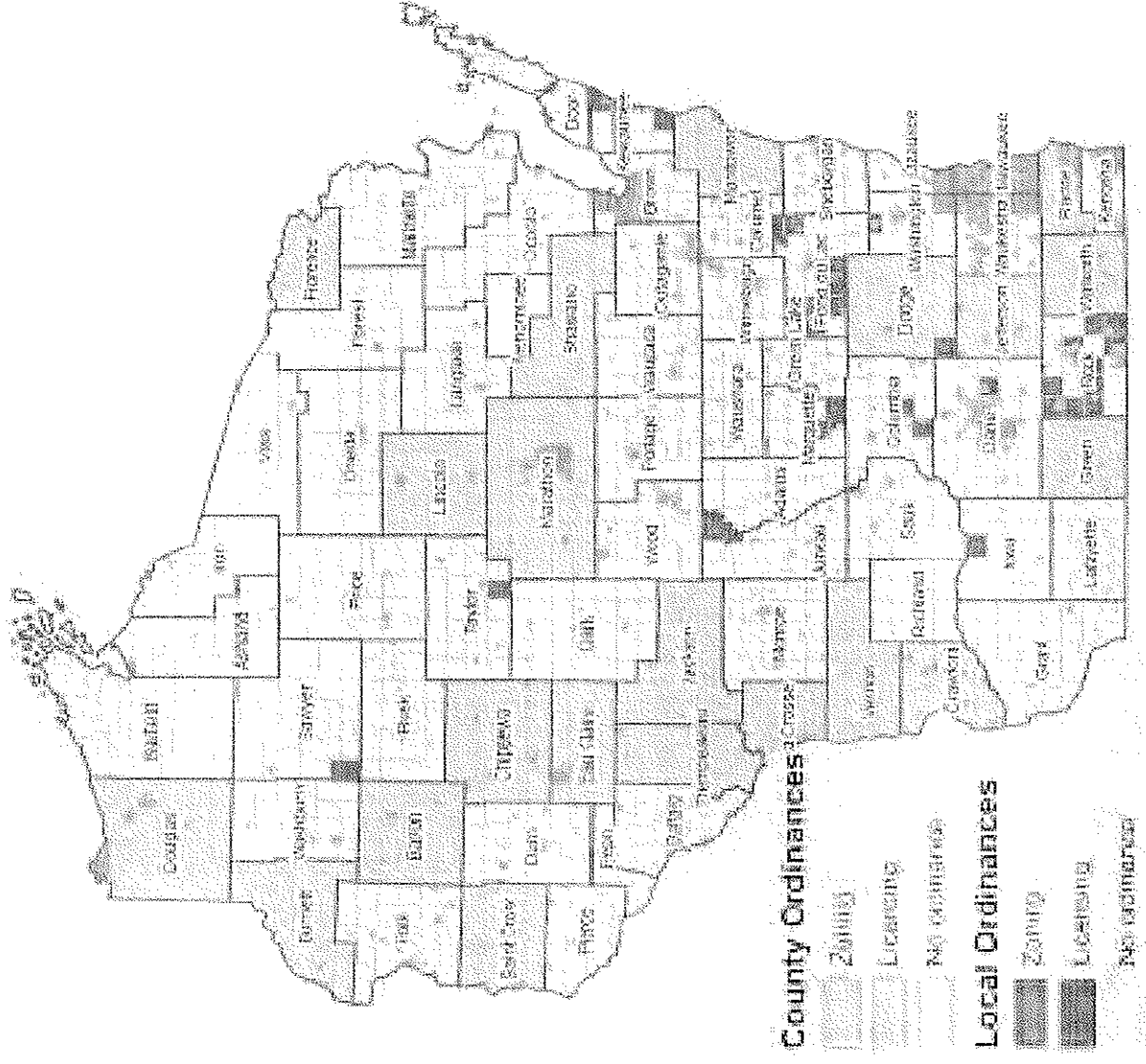
- Siting highlights that environmental issues are addressed
- Government interaction with farmers and better planning of expansions
- Permit conditions are enforceable
- The Livestock Siting Review Board provides impartial appellate review

Local siting regulation

21 counties, 33 towns, 1 city

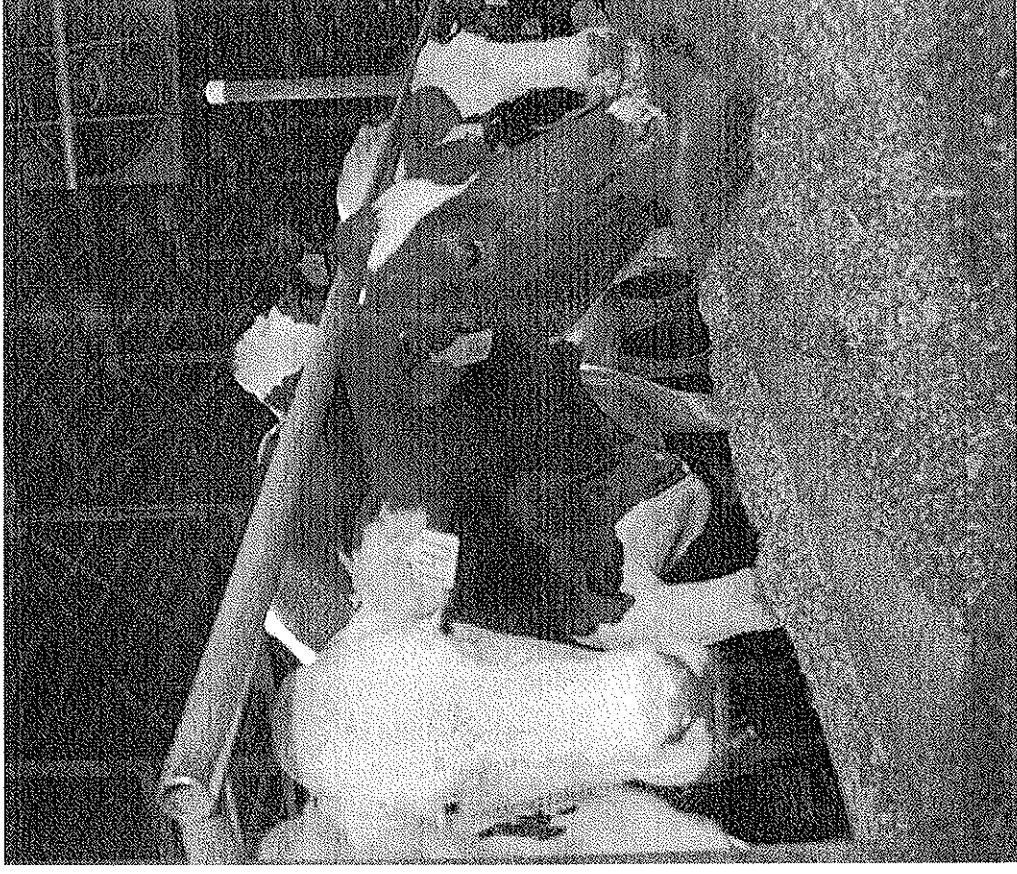
- Expect more
 - Comprehensive planning
 - Working Lands Initiative
 - Reacting to farm expansions

- Web application

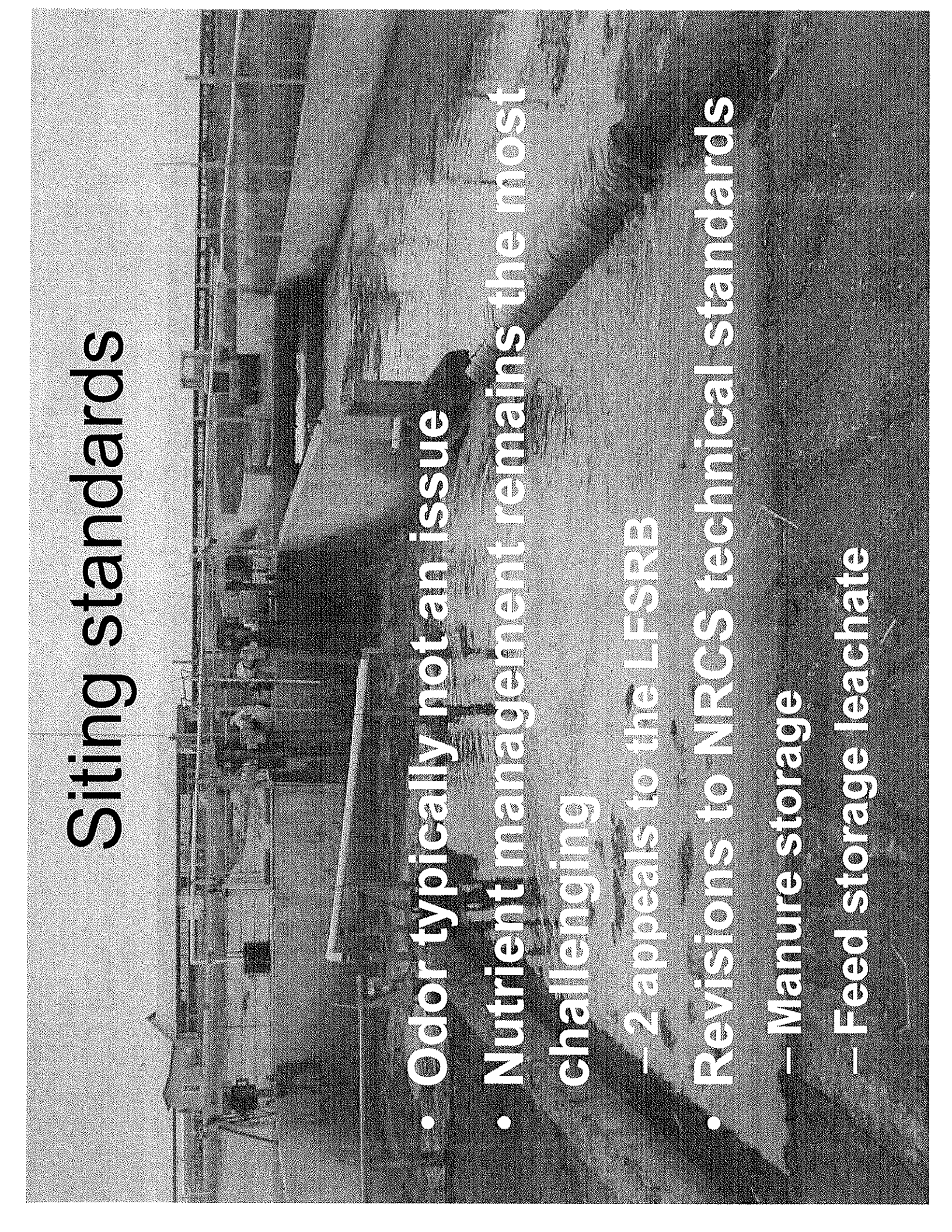


A local commitment is necessary for the program to work

- Administer an ordinance
- Staff time and funding
- Work with landowners
- Public hearings
- Issue permits
- Long term commitment



Siting standards



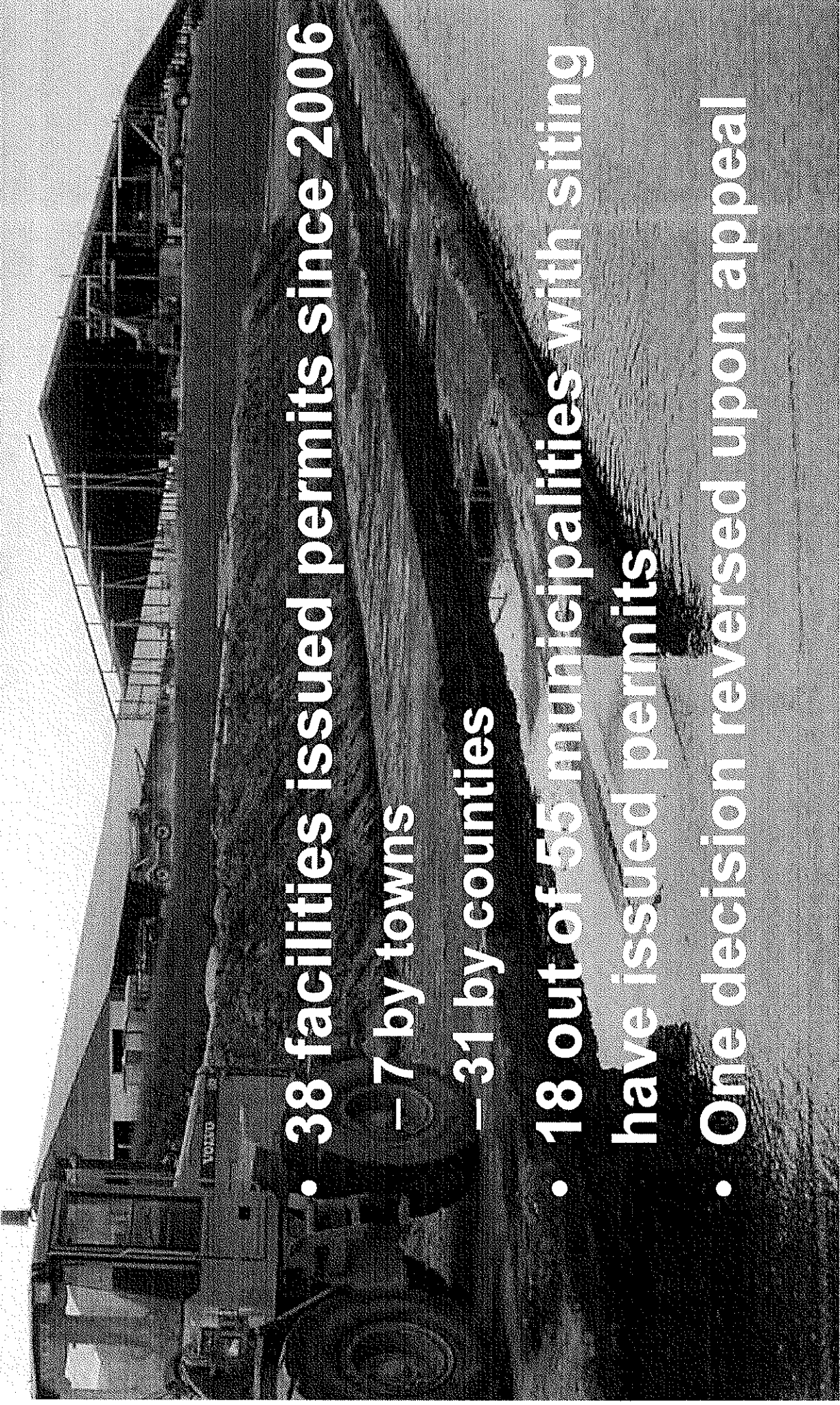
- Odor typically not an issue
- Nutrient management remains the most challenging
 - 2 appeals to the LFSRB
- Revisions to NRCS technical standards
 - Manure storage
 - Feed storage leachate

Application review

- Applications often submitted incomplete
- Up to 120 hours to review an application
 - completeness determination
 - final approval
- Resources and expertise varies
 - county land conservation department
 - zoning officials
 - town board
 - combination

The majority of siting applications are routine and lack controversy

- 38 facilities issued permits since 2006
 - 7 by towns
 - 31 by counties
- 18 out of 55 municipalities with siting have issued permits
- One decision reversed upon appeal



Compliance with permit conditions

- Local governments are developing monitoring protocols
 - New roles and responsibilities
- Producers must stay in compliance
 - New performance expectations

Farm practices concern environmental group

By Jim Mansay

ASSEMBLY HALL

[illegible]

Chancellor Stewart E. Prov-
identis says they can't use
the money to build the Davis Center
or other projects until a state-
wide competition with private design
firms is completed. They say
there's no money to build a new
science center, either. They recently
spended \$100 million to build a library
and science building. Providentis
says if there's better weather quality per-
formance, they could

[illegible]

For more information, call
Bob Holland at 714-268-1429
or Russ Hagen at 608-328-
0270.

known plate and other restrictions required by contract surfaces which are now prohibited. According to a second inspection of the tank, the 12 in. diameter hole was closed by a 12 in. diameter plate, and the 18 in. diameter hole was covered by a 24 in. diameter plate. The 24 in. diameter plate was secured by a 2 in. diameter bolt.

There is no doubt that the
"Simpsons" are a family that
knows how to have fun. And
they know how to make it
count. They know how to
make a family that is as
big as the world, and as
small as a family that
knows how to have fun.

that you simply had been aghast. "I'm not aghast," he said, "but I don't know what to do with the new law books."

“I think they need something to talk about,” said about the Coasters’ new album. For-
get naught.

Once the suggestion to make a compilation of the FNU’s with members of a group who’s known for their live shows and collecting a little

The Gap investors said they are planning a Thursday review of the litigation by experts in the company and will probably announce their decision as early as next week, said a source at the company.

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Variations in local implementation

- Many governments choose not to adopt siting
- Different interpretations of the rule and acceptable documentation
 - Manure spreading
 - Design specs
- Granting variances
- Public involvement



Local expectations of the law

- What it should do - versus - what it can do
 - Manure management
 - Land use
- Public, farmer, and local government perspectives influence decisions
 - Interpretation of law
 - Ordinance adoption
 - Application review

PLANNING PERSPECTIVES

A Newsletter for Local Officials, Planning Commissioners and Concerned Citizens in Marathon County

Volume 8, Issue 1
February 2007

Inside this Issue:

Frequently Asked Questions	2
Educational Materials	6

SPECIAL ISSUE ON LIVESTOCK FACILITY SITING

Livestock Siting Law: Marathon County Update

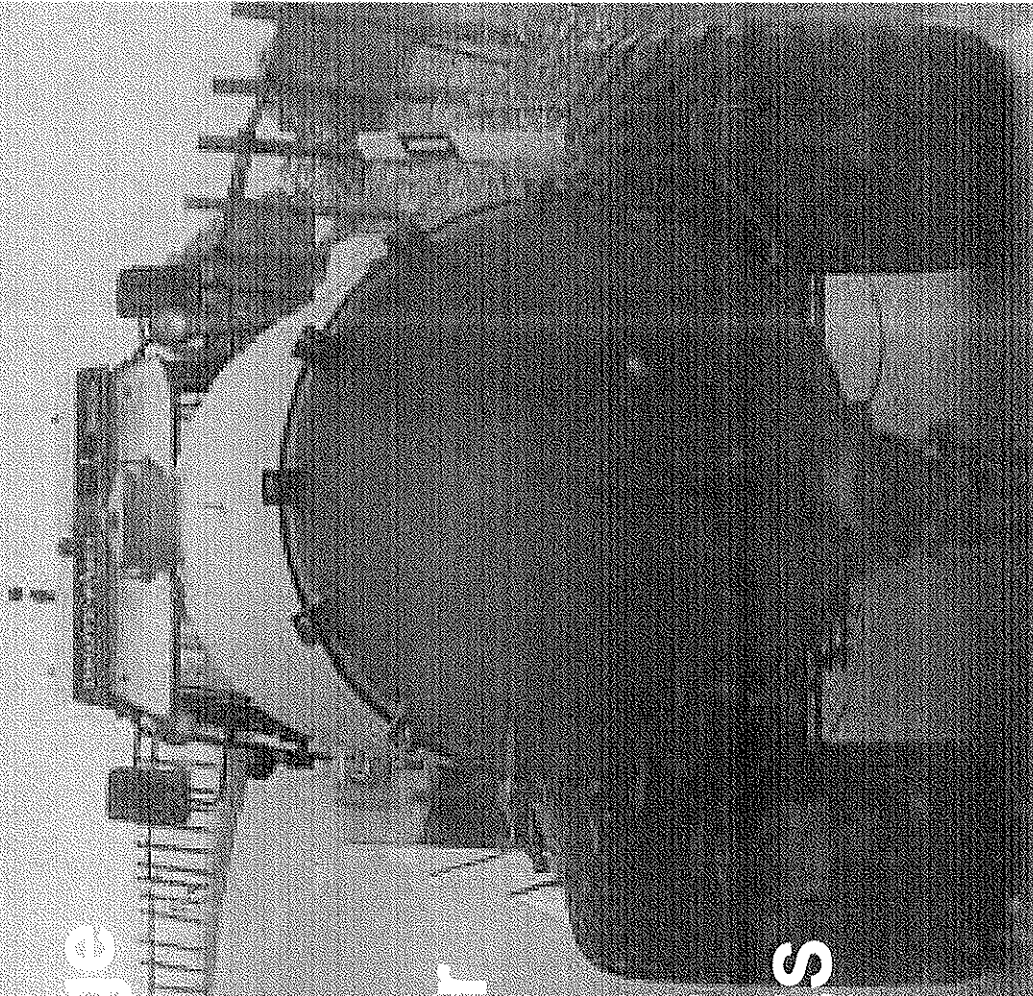
On May 1, 2006, Wisconsin's Livestock Facilities Siting Law became effective. The law maintains a local planning, licensing and zoning authority while providing a predictable permit process to livestock operators. The law also attempts to balance environmental concerns associated with large commercial livestock operations with the economic interests of the agricultural industry and State of Wisconsin.

From the questions and input generated at that meeting, the Marathon County Conservation, Planning and Zoning Department staff developed a set of responses to help community officials understand the law, the county ordinance and potential community responses. Those questions and answers are found in this issue.

The law has been made operational.

The siting law is not intended to

- Replace local land use planning and zoning
- Determine where large farms belong
- Be a mechanism to enforce other state or local regulations
 - roads weights, high capacity wells, WPDES permit, others



Coordinating multiple regulatory requirements

- Different regulatory bodies
 - DNR: chapter 30, WPDES, high capacity well, construction site erosion control
 - County: manure storage, sanitary, zoning
 - Town: building, culvert, livestock siting
- Sequencing multiple permit applications
timelines

Build upon opportunities presented by the Working Lands Initiative

- Counties and towns will update zoning ordinances and permit requirements
- Zoning appropriate areas for large livestock facilities
- Comprehensive planning

Budget Bill Gives Working Lands Concept a Boost

By Joe Sussner
News Editor
(Part in a series on working lands)

On March 4 the agriculture committees of both the assembly and the state senate have passed the Working Lands Initiative (WLI).

The governor's biennial budget bill (S.B. 15) has provisions that allow the state to purchase land for the WLI. The bill also allows the WLI to begin to implement Dan Poulos' former Wisconsin Farm Bureau president and Linda Poulos' current director, as co-chairs of the steering committee.

Key recommendations of the steering committee included modernization of the Farmland Preservation Program and development of Agricultural Enterprise Areas and Purchase of Agricultural Conservation Easements program. The steering committee also recommended that the state put together large tracts of land that could be kept in agriculture and/or forestry for many years to come. Yet there was recognition that the state's current budget deficit did not allow for outright new land purchases.

Rod Nisestuen, secretary of the Department of Agriculture, Trade and Consumer Protection, is describing how rapidly ag land is being lost.

"In the 1980s we were losing 15,000 acres of farmland a year," Nisestuen said. "The loss was an average of 24,000 acres a year and now we're losing 30,000 acres each year," Nisestuen said. "The WLI task force spent a lot of time looking at what did and did not work. They came up with recommendations that were both practical and achievable."

The recommendations that the steering committee favored a voluntary approach to land use change, but even more importantly, "put together new tools for areas that want to be protected."

Because of the state's fiscal position, an important aspect of the WLI budget inclusions is that it is "budget neutral" - does not add any current or future state or federal tax dollars to the cost of the program.

"Instead," Nisestuen explained, "it uses existing programs such as the Farmland Preservation Program and the state's Farmland Easement Tax Credit (instituted because of the drought in the late '80s and which pre-dates use value

assessment of farmland) and existing programs for other working lands. In other words, it provides more bang for the buck."

Farmland Preservation Program (FPP) was created in 1978. It was "cutting edge," according to Nisestuen. Since then it has eroded and has now reached the point where it is no longer viable. The secretary said.

Better local planning, creation of Agricultural Enterprise Areas, plus development of a Purchase of Agricultural Conservation Easement (PACE) through a matching grant program are all part of the FPP update.

"The Ag Enterprise Zones will allow farmers to work together, voluntarily, to create large areas of farmland. These zones require 10 to 15 year commitments instead of 'into perpetuity,'" Nisestuen said.

Conservation easements will be used to stabilize and have put in place. "Farmers who want to retire - and often their land will be sold - will be able to sell their land rights when it makes sense. The farmer can get value out of their land through the sale of their easements, yet their land can stay in production. It's a win-win situation," Nisestuen said.

The budget provides up to 37 million in state funds in the form of matching grants to local governments and to non-profit conservation organizations. These grants will allow the state to purchase farmland on a piece-by-piece basis, rather than from willing sellers.

The state dollars are stretched by requiring grants to be matched by local governments and/or private donations. An advisory council will advise the state on pending grants and proposed purchases.

Working Lands Initiative is WLI in the budget finally gives farmland value and a priority that can be balanced by local communities as they consider the value of farmland preservation. Those purposes include preservation of agricultural productivity, conservation of ag resources, ability to protect or enhance proximity to other protected land.

"Unless we believe land is like the buffalo - there will always be more and it's always better to have it than we need to look seriously at WLI," he emphasized. "This is a program for those communities and counties that want to grow and have agriculture a part of their economy."

While WLI "won't solve all land use conflicts," the

Wisconsin agriculture to continue to grow. To grow agriculture, we need to do a better job of protecting it, said.

Basically, the Working Lands Initiative would fund the purchase of existing farmland used to fund the current Farmland Preservation Tax Credit and the Farmland Tax Relief Credit.

Current funding level for the Farmland Preservation Tax Credit is \$12.7 million. The state would add \$10 million under FPP agreements and exclusive ag zoning. This same amount of funding would continue for 2009 and 2010, only it would be called Landowner Income Tax Credit.

The current Farmland Tax Relief Credit is \$15 million per year and would be phased out in 2009 and 2010, only the name would change to Landowner Tax Credit.

Added together, these two tax credits continue at the same \$27.7 million for both 2009 and 2010.

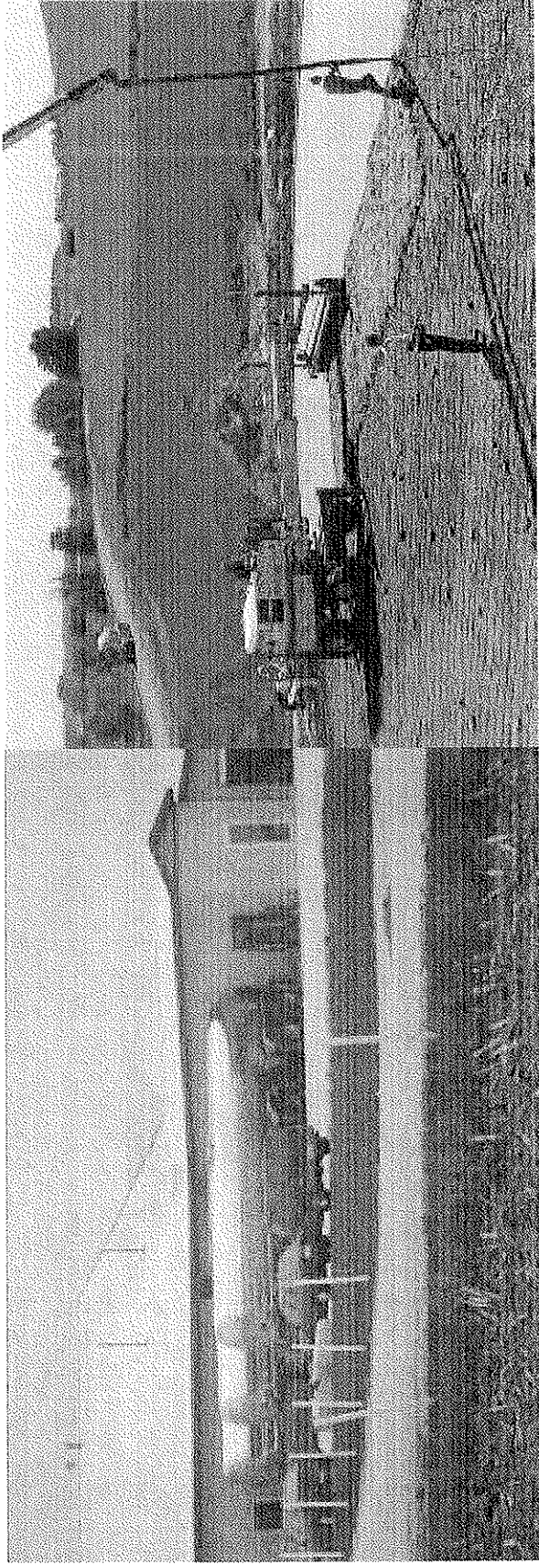
A "Working Lands Trust Fund" would be created using conversion fees assessed when land is rezoned out of a farmland use district. That basic conversion fee would be equal to three times the Class One cropland assessed value of

3/12/09
Nisestuen

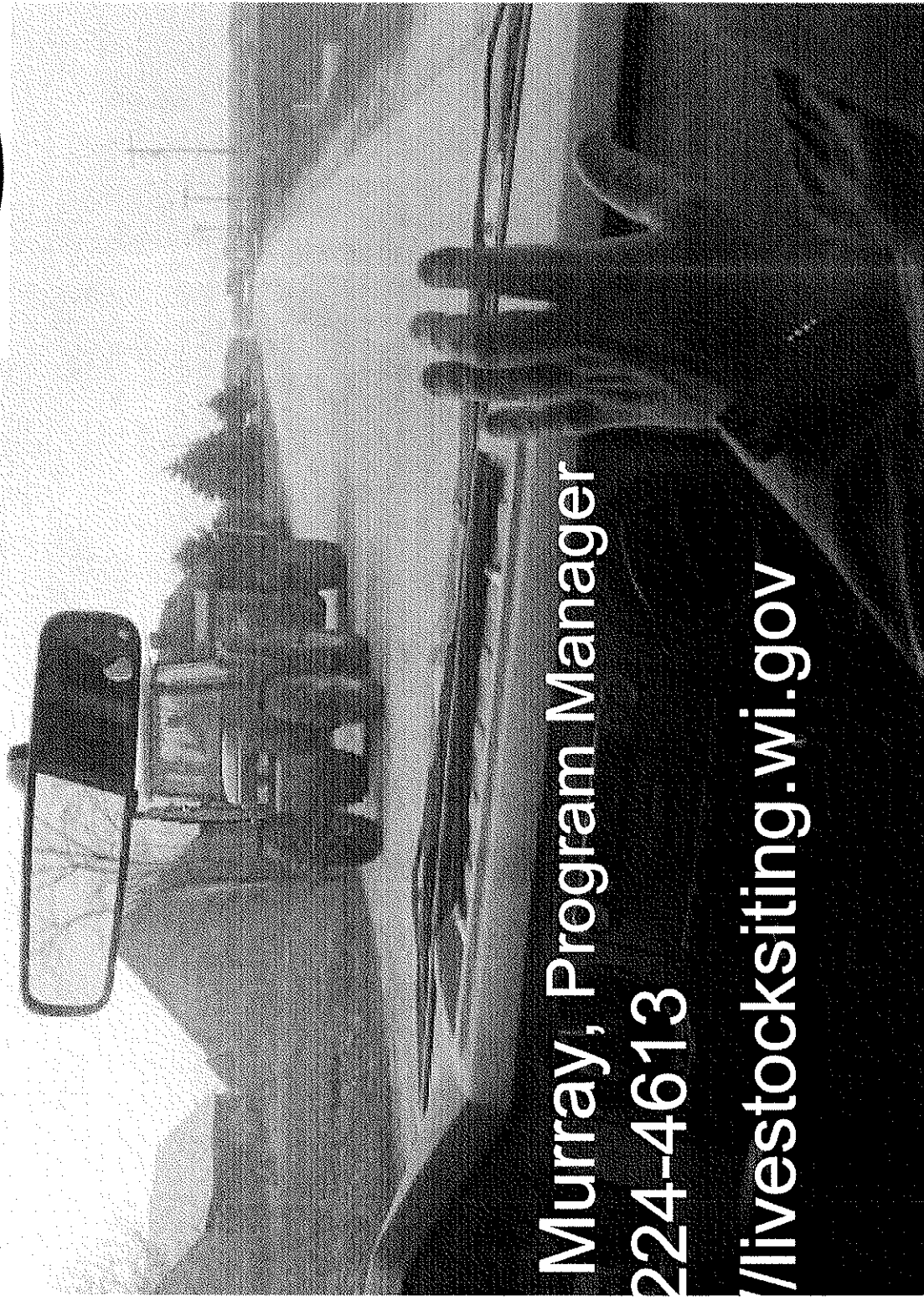
Cont. →

Year four review of ATPCP 51

- DATCP must review the siting standards under ATPCP 51 at least once every four years under s. 93.90(2)(c) stats



Questions?



Murray, Program Manager
224-4613
[/livestocksite.wi.gov](http://livestocksite.wi.gov)

The Country Today

"The Newspaper That Cares About Rural Life"

www.thecountrytoday.com

★ ★ \$1

May 20, 2009

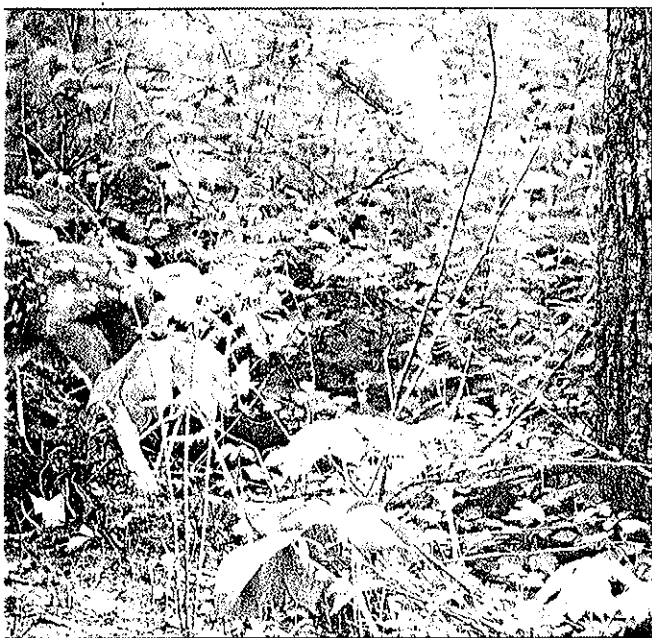


Photo by Jerry Davis

Siting fighting

Livestock facility law criticized at annual review

By Jim Massey

Editor

MADISON — Wisconsin Department of Agriculture, Trade and Consumer Protection officials have a year to conduct a comprehensive review of the state's livestock facility siting law, but those affected by the law provided input on how it's working at the May 13 DATCP Board meeting.

About 20 people offered their opinions during a public comment period, and about two-thirds of them expressed concerns about the three-year-old siting law. The law established state standards that local governments must follow if they decide to regulate the siting of new and expanding livestock operations. It also created a Livestock Facility Siting Review Board to hear appeals of permit decisions.

The law stipulated that the siting rule must be reviewed each May and that a more comprehensive review be conducted after four years.

May 13 was set as the annual review date, so farmers, landowners and others attended the meeting to express their views.

Mike Murray, Livestock Siting Program manager, said the program is working, although some people have had concerns about some of the livestock projects approved and being considered.

"Where the laws have been adopted and where people have learned about the program, it's pretty much working as it was intended," Murray said.

Forty siting permits have been issued in Wisconsin since 2006, he said, and

only one local decision was reversed upon appeal.

Several Vernon County residents spoke in opposition to a 3,200-cow dairy farm that Petry Trust, a land developer from Illinois, is proposing to build in the county. Company owner Jeff Petry has considered several Vernon County sites for the farm, including one about a quarter-mile south of Westby.

"Petry's 3,200 cows would produce 192 tons of raw, untreated waste per day that would be held in lagoons that will put air, water and health at risk," Viroqua resident Emily Sytsma said. "Please help us put into the siting law some considerations of health issues."

Westby dairy farmer Ryan Call said more than 2,000 signatures have been collected on petitions opposing the Petry dairy project. A problem with the law is that local jurisdictions can't stop a livestock facility from being built if it meets state standards, he said.

"I understand the intent of the livestock siting law, to streamline and standardize livestock siting across the state," Call said.

"In theory, that sounds reasonable. In practice, it is deeply flawed and simply does not work. The fact that a 3,200-head dairy operation has the legal right to locate one-quarter mile from the city limits of the second largest city in Vernon County, despite the opposition of 2,000 people, exposes the flaw in the livestock-siting law."

See SITING, Page 2A ▶

Co-ops reducing milk supply

program and will pay less for their milk than they produce more than the prescribed quota. The co-op will determine the "active base" by the number of cows, according to the number of cows sent to producers. The quotas will be set at less than their own, and the co-op will pay \$15 per hundred pounds of milk shipped. The production quota for Valley's Mid-State base component, according to the Web site, is \$24.75 per redweight, plus a seasonal premium. In February the co-op implemented a \$1 redweight deduction in response to market conditions and as a supply-side mechanism, said. The quota program will take effect in July's milk and through January, the letter said. The co-op can choose to pro-

duce over your quota and receive conventional pay equivalent for the overage, but again we encourage you to reduce supply by culling, feeding less grain and more grazing or whatever is best for your farm," Organic Valley Chief Executive Officer George Siemon said in the letter to producers.

Siemon said the co-op's sales have decreased, with some categories 15 percent lower than in 2008. Co-op managers anticipate that 91 percent of their 2009 milk supply will be used for organic products and the remaining 9 percent will go into conventional markets.

The only producers exempted from the supply-reduction program will be those in the Rocky Mountain region, where the co-op needs milk and is "desperate to achieve hauling efficiencies," the letter said.

Siemon said producers

would be sent letters on June 1 with information about their individual quotas and could appeal the quota amount set by the co-op.

"Remember, though, an increase in milk supply due to appeal approvals may require further reduction from our membership," he wrote.

Jane Heisner, an Organic Valley farmer near Mineral Point, said it has been nice to be insulated from milk-price fluctuations by a yearlong contract with the co-op.

"We've been pretty lucky here, considering all the rough stuff last winter (with the economy)," Heisner said. "We all hope it's temporary. They're just trying to protect farmers and keep them going strong and the co-op going strong. They're doing what they have to do."

See MILK, Page 2A ▶

'Alice' fulfills childhood dream

By Sara Bredesen

Editor

INGTON — Brien of East-



Interest in gardening fresh, Wisconsin suppliers say

By Sara Bredesen

Regional Editor

Lauri Latsch, owner of Blodgett Garden Center in Fort Atkinson, said her

from Page 1A

Eleven percent of households already active in food gardening plan to increase the amount and variety they will grow this year, according to the survey.

Ellis Ingram, customer relations manager for Alabama-based Bonnie Plants, said he has seen a 20 to 25 percent increase in sales of herbs and vegetables nationwide this year.

"I think we attribute a lot of that to people being out of work and having more time to garden, plus more people are conscious of spending and want to grow some of their own food. Plus in the last two or three years we've had a lot of scares like the salmonella scare last year," Ingram said.

The NGA survey found that consumers were looking for better-tasting food (58 percent), to save money (54 percent), for better quality food (51 percent) and to grow food they knew was safe (48 percent). Thirty-four percent of those surveyed said the recession was motivating them.

Rob Holder, Bonnie Plants station manager in Milton, said he is seeing about a 30 percent increase in demand in Wisconsin and expects it to remain at that level through the spring planting season. "There's a lot of first-time shoppers out there," Holder said. "We

can tell because they ask a lot of questions."

Amber Mothem of Oshkosh said her reason for starting vegetable gardening this spring is easy.

"Money," she said. "I like gardening anyway, and I'm a stay-at-home mom. I figure we might as well grow vegetables instead of buying them."

The NGA survey found that women make up 54 percent of gardeners. The survey found that 68 percent of food gardeners are more than 45 years old, and 67 percent are households with no children at home.

Dick Zontag, president of Jung Garden Centers in Randolph, said sales of nonedibles such as roses, bulbs and perennials have dropped this spring but overall sales have increased by about 50 percent.

"The sale of edible things is going gangbusters," he said.

Jung's has nationwide catalog sales and five garden centers in Wisconsin.

Like Ingram, Zontag thinks the weak economy is making consumers look to their green spaces as a way to save money and get fresher produce.

"When you look at what you get out of a tomato plant, you're buying maybe four of them for \$1.50 or \$2. Now, if you buy that same amount of fruit, even when the farm markets are open, you're paying a lot of money for that," Zontag said.

In the survey, tomatoes were the most popular vegetable grown at 86 percent. Others were cucumbers (47 percent), sweet peppers (46 percent), beans (39 percent) and carrots, summer squash, onions, hot peppers, lettuce and peas from 34 to 24 percent in popularity.

Vegetable gardening is not without initial cost. Americans spent \$2.5 billion on vegetable gardening in 2008 and an average of \$70 per household, but it's a bargain considering the returns.

A well-maintained vegetable garden can yield an estimated half-pound of produce per square foot at a value of \$2 per pound. The median food garden size is 96 square feet and the average is 600 square feet, according to the NGA.

With 7 million new vegetable gardeners across the country joining the line at the garden center checkout, things look good for the industry.

Zontag said he thinks half to two-thirds of new gardeners will stay with it, even if the economy turns around this year.

"Although it takes some work to keep a garden clean and get some produce out, the stuff that you get is much better tasting, and I think people kind of get a lift out of seeing things that they're planting and growing come to fruition," he said.

Sara Bradesen can be reached at 715-360-7253 or sbrade@gmail.com.

complain about planned CAFOs

from Page 1A

DATCP Board member Enrique Figueroa asked Call what the livestock-siting rule threshold should be in terms of animal numbers.

"I don't have an answer, but I do know that 3,000 is too many," Call said.

Kathy Fairchild of Westby said Wisconsin's geology is varied and doesn't uniformly provide good sites for large livestock facilities.

"The realities of our varied soils, aquifers, geology, topography and community infrastructure must be adequately considered in any siting decision," Fairchild said. "DATCP and all other departments of state government must see it as their task to represent the common good, not just the singular perspective of 'Growing Wisconsin.'"

Several Vernon County residents, including Matthew Urch of Viroqua, said the siting of a large farm could damage the property values of adjacent landowners.

"I'm sure the lobbyists for the Dairy Business Association or Wisconsin Pork Association would be willing to make the claim that living a mere football field downwind of gallons of liquid manure rotting anaerobically in a hole in the ground is just a part of life in the country, but only a fool would believe that," Urch said.

Scott Schultz, Wisconsin Farmers Union executive director, suggested that state officials implement a moratorium on the siting of large livestock operations until the four-year review is complete.

"The Wisconsin Farmers Union has its share of family farmers who operate (concentrated animal feeding operations), but those farms are nowhere near the scope of some of the proposed farms," Schultz said. "Some of the future's massive investor-owned farms might have devastating long-term effects on Wisconsin's rural landscape."

Others testified against a 4,000-cow dairy proposed in Little Black Township in Taylor County. Betty Muskulin of Stetsonville said the area isn't suited for a farming operation that would draw 140 gallons of water per minute. Steve Suchomel said there are 157 residences within two miles of the proposed dairy that would experience property value declines and increased township costs.

Dean Doornink, a dairy farmer near Baldwin, said the law has made the livestock-siting process more predictable for farmers.

"The legislation has provided set procedures and a template to get the job done," Doornink said. "It's been very effective. I fully support what's happened here. Everybody's treated equal."

David Ward, Cooperative Network director of government relations and dairy

and a former state representative, said the livestock-siting law is working the way it was intended.

"Forty permits have been issued and the vast majority have been issued to family farms that are expanding to welcome the next generation to the farm," Ward said. "These are the family farms that are the backbone and fabric of rural Wisconsin. In the vast majority of cases the process has run smooth."

Howard A.V. Roth, a Crawford County swine producer, said he went through the livestock siting process in 2008 and appreciated the "good framework" in the rule.

"I would like to see you stay with the rules," Roth said.

Iowa County dairy farmer Laura Daniels said she doesn't believe officials should make rules that govern how many animals a farm can have.

"Well-managed farms are better for the environment than poorly managed farms," Daniels said. "The thing is that we have to encourage good managers at every size. We don't care if they're big or small. We don't care if they're organic or conventional. We want good farmers here. I truly believe that the siting legislation helps us achieve that. It encourages the good managers to stay in business."

Daniels said she has increased the size of her herd from 200 to 350 cows and improved her environmental efficiency.

Dairy Business Association Executive Director Laurie Fischer said the hearing testimony led her to conclude that the DBA and other agricultural organizations need to do a better job communicating with people who feel threatened by large farms.

"I believe we can sit down together and resolve conflict and issues and at the end of the day still be friends and go to church in our communities and all get along," Fischer said.

People have fears about the manure generated by large farms, but those operations are required to manage manure in an environmentally friendly manner, she said.

"They're drinking the water, their children are drinking the water, their community drinks the water — the last thing they need to do is anything that would be detrimental to the water source in that area," Fischer said. "The people who testified are very passionate about how they feel. It doesn't help my industry unless I listen to their concerns and we try and find ways to work together and accept each others' concerns."

No action was taken on the livestock siting report, but board members said they would take the public comments into consideration when conducting their comprehensive review of the rule during the upcoming year.

Alice/ Woman wants to educate consumers

from Page 1A

O'Brien was a 2008 finalist but finished behind Ashley Huibregtse, Wisconsin's 61st Alice in Dairyland. Huibregtse traveled more than 4,000 miles, conducted more than 400 media interviews and visited with thousands of Wisconsin elementary-school children in the last year to promote the state's \$51.5 billion agriculture industry.

O'Brien said she isn't daunted by the demands of the year ahead, but she heard stories of flooded roads and detours that made Huibregtse's travels a challenge.

"I'm always a person who is punctual and on time, so things like that concern me. But I know with planning and prepa-

ration I'll be able to get there," she said.

O'Brien grew up on a dairy farm in Crawford County. She was a member of the Junior Holstein Association, Eastman Cloverleaf 4-H Club, Wisconsin 4-H Youth Leader Council and represented her county as dairy princess.

She graduated from UW-Milwaukee in 2008 with degrees in journalism and mass communication with an emphasis in broadcast journalism. She works for WISN-TV in Milwaukee as an assignment editor.

O'Brien said her goal over the next year is to get consumers "close and connected" to Wisconsin agriculture.

"We're all consumers, and it matters where you buy your food," she said.

"It's just getting the message out that agriculture is here to stay. It's what many of our communities live off of."

Just as O'Brien was inspired by an earlier Alice in Dairyland, she wants to inspire other girls.

"I want girls from all around the state to see Alice as a prominent figure in Wisconsin agriculture and even encourage them to someday try for Alice, or at least realize that they're connected to Wisconsin agriculture, that there are jobs out there for them that are connected to Wisconsin agriculture," she said.

Alice in Dairyland is a one-year paid marketing position with the Wisconsin Department of Agriculture, Trade and Consumer Protection. O'Brien will earn \$40,000 during her

year as Alice.

In conjunction with the position, Alice drives an ethanol-fueled Chevy Tahoe sponsored by the Wisconsin Corn Promotion Board and wears a tiara provided by the Wisconsin Jewelers Association featuring amethyst and citrine stones native to Wisconsin.

She will receive a mink coat from the Kettle Moraine Mink Breeders Association as a promotional tool for the industry.

Other 2009 finalists were Peggy Dierickx, De Pere; Krista Kasten, Richfield; Jodi Kauth, Loyal; Rebecca Paris, Belleville; and Melanie Welles, Ixonia.

Rock County will host the next Alice in Dairyland finals May 20-22, 2010.

Sara Bradesen can be reached at 715-360-7253 or sbrade@gmail.com.

Milk/ Co-op already has reduced workforce, new projects

from Page 1A

Another Organic Valley dairy farmer, who asked to remain anonymous, wasn't pleased with the co-op's action.

"They're doing what they have to do to protect their profits," the producer said.

Simon said in the letter that Organic Valley has cut costs by shrinking employee numbers and reducing new projects.

"Now we have to see what else we can do internally to match the sacrifices the farmers are making," he said. "This is a historical time for the cooperative as we develop this key component to our long-term pay plan

strategy. As we look forward, we see the importance of supply management and we will all learn through this first attempt and ask that you work with us to make it successful."

Organic Valley officials didn't return phone calls seeking comment on the supply-reduction program.

Jim Massey can be reached at 608-574-8011 or jimmassey@mhtc.net.

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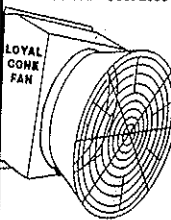
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HOME OFFICE

Pieter F. Grauskamp, Publisher 715-833-9277
Dan Grauskamp, Vice President of Sales 715-830-5821
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No easy answers to livestock-siting conflicts

CT
+ **comment**



By Jim Massey

DATCP officials have a big job ahead as they conduct a review of the livestock facility siting rule.

As the Wisconsin Department of Agriculture, Trade and Consumer Protection heads into its fourth-year review of the Livestock Facility Siting rule, one thing is abundantly clear: DATCP officials have their work cut out for them if they hope to keep the rule intact.

The state Legislature passed the Livestock Facility Siting Law in 2006 with the goal of establishing more predictable rules and procedures for livestock operators to follow if they were expanding or siting new facilities. The law establishes procedures: local governments must follow if they decide to issue conditional use or other local permits for siting livestock facilities, and sets standards that farmers must meet.

The DATCP was charged with overseeing the rule, and a review board was established to hear appeals concerning local permit decisions.

DATCP officials say the rule has worked, with 40 permits issued by towns and counties since 2006. They say producers are meeting new performance expectations and in most cases local conflicts have been reduced.

"Where the laws have been adopted and where people have learned about the program, it's pretty much working

as it was intended," said Mike Murray, DATCP livestock-siting program manager.

A group of people who attended the May 13 DATCP Board meeting and others who are opposing the siting of several large livestock operations would beg to differ with that interpretation of the program's success.

It appears that the larger the project, the more the opposition has been stirred. Most of the people at last week's meeting were opposing projects in Vernon and Taylor counties, where 3,200- and 4,000-cow dairy operations have been proposed.

The testimony certainly gave DATCP officials something to think about as they begin their mandatory fourth-year program review. If the law was intended to reduce local conflict between farmers and their neighbors, in some cases it isn't working.

Westby dairy farmer Ryan Call said one of the problems with the program is it isn't realistic when it comes to siting a large livestock operation near population centers.

Wisconsin Farmers Union Executive Director Scott Schultz said the Farmers Union questions whether people and

organizations that signed onto the siting rule several years ago realized they would be looking at a proliferation of farms with thousands of animal units.

"Some of the future's massive investing long-term effects on Wisconsin's rural landscape," Schultz said. The Farmers Union is proposing a moratorium on future project approvals until the rule is tweaked.

Cobb dairy farmer Laura Daniels offered her comments from a different angle. Daniels said it shouldn't matter how big livestock operations are as long as they are managed well.

There are no easy answers to the livestock-siting concerns. The law has helped Wisconsin's dairy industry grow during the past three years and in many cases it has made the process more predictable for producers. But some people say that predictability has come at the expense of the loss of local control.

It's possible that the Working Lands Initiative — still included in the state budget — could over the long haul improve the livestock-siting process.

The initiative includes an Agricultural Enterprise Area program that would help towns and counties determine

where agriculture should flourish and where population expansion should be allowed. The program could give back to local municipalities some of the control they feel they've lost through livestock siting and allow them to better plot their future.

Daniels said she is saddened by the "extreme response" the siting law has elicited.

"I truly believe we all have the same goals," Daniels said. "But it's hard to find that common ground to work together when we continue to polarize."

Wisconsin residents must come to the realization that modern agriculture looks different than it did 50 years ago. Some of that progress has come with larger farms that in many cases do a better environmental job than their small-farm neighbors.

But that doesn't mean those large farms should be sprinkled everywhere in the rural landscape. There are places where large-scale agriculture is appropriate and places where it's not.

The livestock-siting rule will never please everyone, but DATCP officials must do a better job of finding common ground between modern agriculture and those who live in rural Wisconsin.

Silencing the TV media circus

shattering necessities like cable TV, cell phones and iPods.

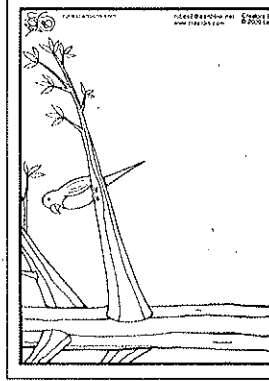
Despite this lack of 24/7 connectivity, I didn't know how disadvantaged we were until 1965 or so when I spent a weekend at my friend's 160-acre tenant farm. Its house had a wood cookstove and no bathroom.

But the farm did sport chickens, pigs, a Jersey milk cow, a small flock of almost-pet sheep, some beef cows, a nicely appointed out-house and a working windmill.

A month or so ago, the manager of this one-dog farmette clipped the coaxial cable that linked our rural home to the yellers at CNBC, CNN, Fox and the 264 other big-haired television airheads blovating about other biotivators.

Our children, both fulfilling their destinies on the East Coast and therefore no part of the coming Great Silence, were stunned. What will you do for, like, Jon Stewart or Cardinal base-bail, they asked.

Don't know, but once you've given



Livestock Facility Siting Law Review By Ag Board Sparks Public Comment

By SHANNON HAYES
MANAGING EDITOR

The Department of Agriculture's Trade and Consumer Protection's we want good farms (DATCP) ag board meeting last week and scheduled review of ATCP 51 Livestock Facility Siting Law brought about extensive public comment, with 22 people appearing before the board to offer verbal comment and one group providing only written comment.

Proposed livestock facilities in Vernon and Taylor Counties prompted much of the public comment, with much frustration over seeming lack of local control in siting decisions and many fears expressed over possible water and air quality issues on the more densely populated farms. Hot-button phrases "family farms" and "factory farms" were tossed around by many of the citizens commenting in opposition to ATCP 51. The board sifted through their comments, often asking people making statements to give their definition of a family farm and/or what constituted a farm that's "too big," trying to get to the root of the reasons for opposition, misinformation and fears.

"I don't like to go there," Laura Daniels, a dairy producer from Cobb said when asked to give her definition of a family farm. "I think said Kelvin Rodolfo, a retired geology professor in Viroqua. "Its limestone and dolomite bedrock is widely exposed, heavily fractured and soluble," he said, making the area more susceptible to high nitrate levels in wells.


Fear, fueled by misinformation and at times exaggeration in whether or not to follow the environmental standards put in place with the livestock siting law, and that DBA believes in preventing pollution on farms. "If you decide you're going to be a CAFO, you comply with what the rules are. No ifs, ands or buts about it." She expressed the need for further education to address public fear and continued false information. "We can't deny their feelings. 51 that the board stick to the core beliefs the rules were based on:

- Protect public health and safety in a way that's practical and workable
- Cost effective
- Objective
- Based on peer-reviewed science
- Promotes the growth of animal agriculture
- Balances the producers' interest with protecting natural resources
- Usable by local government.


"Now that ATCP 51 is three years old I'm happy to say that it's working," Ward said. "These farms are the backbone of Wisconsin agriculture, and these permitted operations have protected public health and safety, protected natural resources and they have helped changes or adjustments and they have helped Wisconsin's \$20 billion dairy business."

David Ward of the Cooperative Network emphasized that if tested natural resources changes or adjustments and they have helped Wisconsin's \$20 billion dairy business."

David Ward of the Cooperative Network emphasized that if tested natural resources changes or adjustments and they have helped Wisconsin's \$20 billion dairy business."



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